

that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 625.25 Further proceedings.

(a) The determination of an award shall be made on the basis of the written record unless the presiding officer finds that further proceedings are necessary for full and fair resolution of the issues arising from the application. Such further proceedings may be at the request of either the applicant or the FCA counsel, or on the presiding officer's own initiative, and shall be conducted as promptly as possible. Further proceedings may include an informal conference, oral argument, additional written submissions, or other actions required by the presiding officer, but may not include discovery or an evidentiary hearing with respect to the issue of whether the agency's position was substantially justified.

(b) Whether or not the position of the agency was substantially justified shall be determined on the basis of the administrative record, as a whole, which is made in the adversary adjudication for which fees and other expenses are sought.

(c) A request that the presiding officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 625.26 Recommended decision.

The presiding officer shall file a recommended decision within 30 days after completion of proceedings on the application, and, promptly upon filing, shall serve a copy of the recommended decision upon each party to the proceedings. The decision shall include written findings and conclusions on the applicant's eligibility, status as a prevailing party, the recommended amount of the award, if any, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the FCA's position was substantially justified, whether the applicant unduly protracted the adversary

adjudication, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 625.27 Board decision.

Following filing of the recommended decision with the Board, the Board shall render a final decision on the application. The Board maintains full discretion to uphold, reverse, remand, or alter the recommended decision. The Board may order further proceedings (including those set forth in §§ 622.11 and 622.13 through 622.16 of this chapter) upon request by any party to the application proceeding or on its own initiative, but such proceedings may not include discovery or an evidentiary hearing with respect to the issue of whether the agency's position was substantially justified.

§ 625.28 Judicial review.

Judicial review of final FCA decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 625.29 Payment of award.

(a) An applicant seeking payment of an award shall submit to the Secretary to the Board a copy of the final decision granting the award, accompanied by a certification that the applicant will not seek judicial review of the decision. The required submission and certification should be sent to: Secretary to the Board, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

(b) The FCA will pay the amount awarded to the applicant within 60 days of receipt of the applicant's submission and certification.

**PART 626—NONDISCRIMINATION
IN LENDING**

Sec.

626.6000 Definitions.

626.6005 Nondiscrimination in lending and other services.

626.6010 Nondiscrimination in applications.

626.6015 Nondiscriminatory appraisal.

626.6020 Nondiscriminatory advertising.